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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,878	02/05/2004	Philip W. Wyers	2030	7410
24264	7590	11/26/2004	EXAMINER	
TIMOTHY J MARTIN, PC 9250 W 5TH AVENUE SUITE 200 LAKEWOOD, CO 80226			GALL, LLOYD A	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/773,878

Applicant(s)

WYERS, PHILIP W. 

Examiner

Lloyd A. Gall

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

The disclosure is objected to because of the following informalities: On page 8, a brief description of Figure 8 should follow line 4. On page 10, line 12, "20" should be replaced with --22--. On page 11, line 6, "26" should be replaced with --24--. On page 12, line 20, "8" should be replaced with --9--. On page 12, line 21, "9" should be replaced with --10--. On page 13, line 1, the second occurrence of "the" should be replaced with --to--.

Appropriate correction is required.

Claims 4, 14, 18, 27, 29 and 35 are objected to because of the following informalities: In claim 4, line 2, "member" should be replaced with --portion--. See claim 14, line 2 also. In claim 18, line 11, "portion" is misspelled. Claim 27 should depend from claim 26 to provide antecedent basis for "said stop portion cover". In claim 29, line 2, the last occurrence of "said" should be replaced with --the--, since there is no antecedent basis for "said first flange". Claim 35 should depend from claim 34 to provide antecedent basis for "said stop portion cover". Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-7, 10-15, 18-21, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Zapushek (407).

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As seen in figs. 3 and 4, Zapushek teaches a shackle member having a shank 25, a stop portion 15 in fig. 4, a latch portion 30, 35, an outer surface margin being engaged and sealed in fig. 4 where it is contacted by the seal 120, a cylindrical locking head 50 in fig. 3 having a key-operable locking mechanism 85 therein, a portion 100 of the locking mechanism having an entryway 140 to engage the latch portion 30, 35, a head cover 40 having a cylindrical cover portion skirt to surround and engage the locking head 50, a flange portion of the head cover 40 having a groove therein to receive the O-ring seal 120 and defining an opening 45 as seen in fig. 4, and a cap member 130.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Li (000) or Chen (316).

Li teaches a cap 252 integral with a member 21. Chen teaches a cap 16, 18 integral with a member 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the cap 130 of Zapushek integral with the head cover 40, in view of the teaching of Li or Chen, the motivation being to prevent the potential loss of the cap when it is not in use.

Claims 8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Derman (187) or Hampton et al.

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Derman teaches a head cover 50 of stiff material (column 4, line 15). Hampton teaches a head cover 34, 48 of resilient material with at least a degree of stiffness. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the head cover of Zapushek of a stiff, yet resilient material, in view of the teaching of Derman or Hampton et al, since any similar material would function just as well.

Claims 9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Derman or Hampton et al as applied to claims 8 and 22 above, and further in view of Lee (181).

Lee teaches a truncated edge margin at the top of fig. 4 surrounding a seal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to truncate the flange of Zapushek, in view of the teaching of Lee, to aid in guiding the shank into the locking head.

Claims 16 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Chen (086).

Chen teaches a two-flanged stop portion cover 413 over a stop portion 41. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a cover over the stop portion 15 of Zapushek, in view of the teaching of Chen, the motivation being to protect the stop portion from the elements.

Claims 17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapushek in view of Chen as applied to claims 16 and 28 above, and further in view of Hampton et al.

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Hampton teaches a stiff, yet resilient material 34, 48. It would have been obvious to form the stop portion cover of the modified Zapushek reference of a stiff, yet resilient material, in view of the teaching of Hampton et al, since any well known similar material would function just as well.

Claims 30, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Zapushek. The preamble of claim 30 sets forth the admitted prior art. Zapushek has been discussed above. To provide the hitch pin of Zapushek for use with the hitch of applicant's admitted prior art, would have been obvious to one of ordinary skill in the art.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Zapushek as applied to claim 30 above, and further in view of Derman or Hampton et al.

Derman and Hampton have been discussed above. It would have been obvious to form the head cover of the modified applicant's admitted prior art as modified by Zapushek of a stiff, yet resilient material, in view of the teaching of Derman or Hampton, since any similar material would function just as well.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in view of Zapushek, as applied to claim 30 above, and further in view of Chen (086).

Chen has been discussed above. It would have been obvious to provide a cover over the stop portion of applicant's admitted prior art as modified by Zapushek, in view of the teaching of Chen, the motivation being to protect the stop portion from the elements.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified applicant's admitted prior art in view of Zapushek and Chen as applied to claim 34 above, and further in view of Hampton et al.

Hampton has been discussed above. It would have been obvious to form the stop portion cover of the modified applicant's admitted prior art of a stiff, yet resilient material, in view of the teaching of Hampton et al, since any well known similar material would function just as well.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lloyd A. Gall whose telephone number is 703-308-0828. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

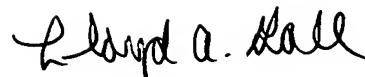
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LG LG

November 23, 2004

A handwritten signature in cursive script that reads "Lloyd A. Gall".

Lloyd A. Gall  
Primary Examiner